

**Executive Summary – Enforcement Matter – Case No. 49291**

**City of Seminole**

**RN101376978**

**Docket No. 2014-1313-PWS-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

**Media:**

PWS

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Seminole, 101 East Avenue A, Seminole, Gaines County

**Type of Operation:**

Public water supply

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** December 11, 2015

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$1,500

**Amount Deferred for Naturally Occurring Organic Contaminants:** \$1,500

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**Supplemental Environmental Project ("SEP") Conditional Offset:** \$0

Name of SEP: N/A

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - N/A

**Major Source:** Yes

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** April 2014

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** August 12, 2014 through August 22, 2014

**Date(s) of NOE(s):** August 22, 2014

**Executive Summary – Enforcement Matter – Case No. 49291**

**City of Seminole**

**RN101376978**

**Docket No. 2014-1313-PWS-E**

***Violation Information***

1. Failed to comply with the maximum contaminant level ("MCL") of 0.010 milligrams per liter ("mg/L") for arsenic, based on the running annual average [30 TEX. ADMIN. CODE § 290.106(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].
2. Failed to comply with the MCL of 4 mg/L for fluoride, based on the running annual average [30 TEX. ADMIN. CODE § 290.106(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c)].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require the Respondent to:
  - a. Within 365 days:
    - i. Return to compliance with the MCL for arsenic, in accordance with 30 TEX. ADMIN. CODE § 290.106; and
    - ii. Return to compliance with the MCL for fluoride, in accordance with 30 TEX. ADMIN. CODE § 290.106.
  - b. Within 380 days, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with a.i. and a.ii.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

**Executive Summary – Enforcement Matter – Case No. 49291**  
**City of Seminole**  
**RN101376978**  
**Docket No. 2014-1313-PWS-E**

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jim Fisher, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2537; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

**TCEQ SEP Coordinator:** N/A

**Respondent:** The Honorable Wayne Mixon, Mayor, City of Seminole, 302 South Main Street, Seminole, Texas 79360

**Respondent's Attorney:** Mr. Kinnan Goleman, KG Strategies, LLC, 408 West 14th Street, Austin, Texas 78701





# Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	25-Aug-2014	<b>Screening</b>	10-Sep-2014	<b>EPA Due</b>	30-Sep-2009
	<b>PCW</b>	5-Oct-2015				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Seminole		
<b>Reg. Ent. Ref. No.</b>	RN101376978		
<b>Facility/Site Region</b>	7-Midland	<b>Major/Minor Source</b>	Major

## CASE INFORMATION

<b>Enf./Case ID No.</b>	49291	<b>No. of Violations</b>	2
<b>Docket No.</b>	2014-1313-PWS-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Public Water Supply	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Jim Fisher
		<b>EC's Team</b>	Enforcement Team 2
<b>Admin. Penalty \$ Limit Minimum</b>	\$50	<b>Maximum</b>	\$1,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1** **\$1,200**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History** **25.0%** Enhancement **Subtotals 2, 3, & 7** **\$300**

**Notes** Enhancement for five NOV's with the same/similar violations.

**Culpability** **No** **0.0%** Enhancement **Subtotal 4** **\$0**

**Notes** The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5** **\$0**

**Economic Benefit** **0.0%** Enhancement\* **Subtotal 6** **\$0**

Total EB Amounts	\$13,147
Estimated Cost of Compliance	\$50,000

\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal** **\$1,500**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

**Notes**

**Final Penalty Amount** **\$1,500**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** **\$1,500**

**DEFERRAL** **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

**Notes**

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY** **\$1,500**

Screening Date 10-Sep-2014

Docket No. 2014-1313-PWS-E

PCW

Respondent City of Seminole

Policy Revision 4 (April 2014)

Case ID No. 49291

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101376978

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgments or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

## &gt;&gt; Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Satisfactory Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for five NOVs with the same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, &amp; 7) 25%

## &gt;&gt; Final Compliance History Adjustment

Final Adjustment Percentage \*capped at 100% 25%

Screening Date 10-Sep-2014

Docket No. 2014-1313-PWS-E

PCW

Respondent City of Seminole

Policy Revision 4 (April 2014)

Case ID No. 49291

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101376978

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.106(f)(3) and Tex. Health &amp; Safety Code § 341.0315(c)

Violation Description Failed to comply with the maximum contaminant level ("MCL") of 0.010 milligrams per liter ("mg/L") for arsenic, based on the running annual average, as shown in the attached violation table.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes Exceeding the MCL for arsenic caused the customers of the Facility to be exposed to a significant amount of pollutants which do not exceed levels protective of human health.

Adjustment \$700

\$300

## Violation Events

Number of Violation Events 3

272 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	x
	single event	

Violation Base Penalty \$900

Three annual events are recommended (one event for each entry point).

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	
N/A	x (mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$900

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$13,147

Violation Final Penalty Total \$1,125

This violation Final Assessed Penalty (adjusted for limits) \$1,125

# Economic Benefit Worksheet

Respondent City of Seminole  
Case ID No. 49291  
Reg. Ent. Reference No. RN101376978  
Media Public Water Supply  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$50,000	31-Mar-2014	31-Dec-2017	3.76	\$626	\$12,521	\$13,147
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

### Notes for DELAYED costs

The delayed cost includes the estimated amount for the Facility to investigate, identify and implement the necessary corrective actions to return to compliance with the MCL for arsenic and fluoride, calculated from the last day of the first quarter of noncompliance to the estimated date of compliance.

## Avoided Costs

### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

### Notes for AVOIDED costs

Approx. Cost of Compliance

\$50,000

TOTAL

\$13,147



Screening Date 10-Sep-2014

Docket No. 2014-1313-PWS-E

PCW

Respondent City of Seminole

Policy Revision 4 (April 2014)

Case ID No. 49291

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101376978

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.106(f)(3) and Tex. Health &amp; Safety Code § 341.0315(c)

## Violation Description

Failed to comply with the MCL of 4 mg/L for fluoride based on the running annual average, as shown in the attached violation table.

Base Penalty \$1,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Major	Harm Moderate	Minor
Actual		x	
Potential			

Percent 30.0%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix  
Notes

Exceeding the MCL for fluoride caused customers of the Facility to be exposed to a significant amount of pollutants which do not exceed levels protective of human health.

Adjustment \$700

\$300

## Violation Events

Number of Violation Events 1

272 Number of violation days

mark only one  
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$300

One annual event is recommended.

## Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$300

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$375

This violation Final Assessed Penalty (adjusted for limits) \$375

# Economic Benefit Worksheet

**Respondent** City of Seminole  
**Case ID No.** 49291  
**Reg. Ent. Reference No.** RN101376978  
**Media** Public Water Supply  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs are included in the Economic Benefit for Violation No. 1.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

City of Seminole  
Docket No. 2015-1313-PWS-E  
Public Water Supply ID No. 0830012

Violation Table				
	<b>Arsenic</b> MCL=0.010 mg/L based on RAA			<b>Fluoride</b> MCL=4.0 mg/L based on RAA
Quarters/Year	Entry Point No.1	Entry Point No.2	Entry Point No. 4	Entry Point No. 4
1Q14	0.015	0.014	0.018	4.4
2Q14	0.014	0.014	0.017	4.4
3Q14	0.014	0.014	0.017	4.4

Mg/L = milligrams per liter

RAA = Running Annual Average

MCL = Maximum Contaminant Level



The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600730048, RN101376978, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

**Customer, Respondent, or Owner/Operator:** CN600730048, City of Seminole **Classification:** SATISFACTORY **Rating:** 0.20

**Regulated Entity:** RN101376978, CITY OF SEMINOLE **Classification:** NOT APPLICABLE **Rating:** N/A

**Complexity Points:** N/A **Repeat Violator:** N/A

**CH Group:** 14 - Other

**Location:** 101 E AVENUE A, SEMINOLE, GAINES COUNTY, TEXAS

**TCEQ Region:** REGION 07 - MIDLAND

**ID Number(s):**

**PUBLIC WATER SYSTEM/SUPPLY REGISTRATION** 0830012

**WATER LICENSING LICENSE** 0830012

**Compliance History Period:** September 01, 2008 to August 31, 2013 **Rating Year:** 2013 **Rating Date:** 09/01/2013

**Date Compliance History Report Prepared:** August 25, 2014

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** August 25, 2009 to August 25, 2014

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Katie Hargrove

**Phone:** (512) 239-2569

### Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site Are Listed in Sections A - J

#### **A. Final Orders, court judgments, and consent decrees:**

N/A

#### **B. Criminal convictions:**

N/A

#### **C. Chronic excessive emissions events:**

N/A

#### **D. The approval dates of investigations (CCEDS Inv. Track. No.):**

Item 1	July 06, 2011	(936922)
Item 2	April 14, 2014	(1160150)

#### **E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):**

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	11/07/2013	(1133950)	CN600730048
	Self Report?	NO		Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
 Description: ARS MCL 3Q2013 - The system violated the maximum contaminant level for arsenic during the 3rd quarter of 2013 with a RAA of 0.014 mg/L at EP001, RAA of 0.014 mg/L at EP002, and RAA of 0.018 mg/L for EP004.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
 Description: FLU MCL 3Q2013 - The system violated the maximum contaminant level for fluoride during the 3rd quarter of 2013 with a RAA of 4.5 mg/L at EP004.

2 Date: 02/27/2014 (1191399) CN600730048  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
 Description: FLU MCL 4Q2013 - The system violated the maximum contaminant level for fluoride during the 4th quarter of 2013 with a RAA of 4.5 mg/L at EP004.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
 Description: ARS MCL 4Q2013 - The system violated the maximum contaminant level for arsenic during the 4th quarter of 2013 with a RAA of 0.014 mg/L at EP001, RAA of 0.014 mg/L at EP002, and RAA of 0.018 mg/L at EP004.

3 Date: 03/11/2014 (1191399) CN600730048  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
 Description: FLU MCL 1Q2014 - The system violated the maximum contaminant level for fluoride during the 1st quarter of 2014 with a RAA of 4.4 mg/L at EP004.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
 Description: ARS MCL 1Q2014 - The system violated the maximum contaminant level for arsenic during the 1st quarter of 2014 with a RAA of 0.015 mg/L at EP001, RAA of 0.014 mg/L at EP002, and RAA of 0.018 mg/L at EP004.

4 Date: 03/31/2014 (1191399) CN600730048  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
 Description: FLU MCL 1Q2013 - The system violated the maximum contaminant level for fluoride during the 1st quarter of 2013 with a RAA of 4.6 mg/L at EP004.

5 Date: 08/18/2014 (1191399) CN600730048  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
 Description: FLU MCL 2Q2014 - The system violated the maximum contaminant level for fluoride during the 2nd quarter of 2014 with a RAA of 4.4 mg/L at EP004.  
 Self Report? NO Classification: Moderate  
 Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)  
 Description: ARS MCL 2Q2014 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2014 with a RAA of 0.014 mg/L at EP001, RAA of 0.014 mg/L at EP002, and RAA of 0.017 mg/L at EP004.

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A

## Appendix A

1	Date:	06/24/2011	(1133950)	CN600730048	Classification:	Moderate
	Self Report?	NO For Informational Purposes Only				
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 4Q2010 - The system violated the maximum contaminant level for arsenic during the 4th quarter of 2010 with a RAA of 0.020 mg/L at EP001.				
2	Date:	08/18/2011	(1133950)	CN600730048	Classification:	Moderate
	Self Report?	NO For Informational Purposes Only				
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 1Q2011 - The system violated the maximum contaminant level for arsenic during the 1st quarter of 2011 with a RAA of 0.018 mg/L at EP002.				
		Classification: Moderate				
	Self Report?	NO For Informational Purposes Only				
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 2Q2011 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2011 with a RAA of 0.020 mg/L at EP001.				
3	Date:	12/27/2011	(1133950)	CN600730048	Classification:	Moderate
	Self Report?	NO For Informational Purposes Only				
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 3Q2011 - The system violated the maximum contaminant level for arsenic during the 3rd quarter of 2011 with a RAA of 0.018 mg/L at EP001, and RAA of 0.018 mg/L at EP002.				
4	Date:	03/28/2012	(1133950)	CN600730048	Classification:	Moderate
	Self Report?	NO For Informational Purposes Only				
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 4Q2011 - The system violated the maximum contaminant level for arsenic during the 4th quarter of 2011 with a RAA of 0.018 mg/L at EP001, and RAA of 0.018 mg/L at EP002.				
5	Date:	05/04/2012	(1133950)	CN600730048	Classification:	Moderate
	Self Report?	NO For Informational Purposes Only				
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 1Q2012 - The system violated the maximum contaminant level for arsenic during the 1st quarter of 2012 with a RAA of 0.019 mg/L at EP001, and RAA of 0.019 mg/L at EP002.				
6	Date:	08/14/2012	(1133950)	CN600730048	Classification:	Moderate
	Self Report?	NO For Informational Purposes Only				
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 2Q2012 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2012 with a RAA of 0.017 mg/L at EP001, and RAA of 0.018 mg/L at EP002.				
7*	Date:	10/23/2012	(1133950)	CN600730048	Classification:	Moderate
	Self Report?	NO For Informational Purposes Only				
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)				
	Description:	ARS MCL 3Q2012 - The system violated the maximum contaminant level for arsenic during the 3rd quarter of 2012 with a RAA of 0.017 mg/L at EP001, RAA of 0.018 mg/L at EP002, and RAA of 0.018 mg/L at EP003.				

8*	Date:	11/19/2012	(1133950)	CN600730048	Classification:	Moderate						
	Self Report?	NO	For Informational Purposes Only									
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)										
	Description:	ARS MCL 4Q2012 - The system violated the maximum contaminant level for arsenic during the 4th quarter of 2012 with a RAA of 0.017 mg/L at EP001, RAA of 0.017 mg/L at EP002, and RAA of 0.016 mg/L for EP004.										
9*	Date:	02/22/2013	(1133950)	CN600730048	Classification:	Moderate						
	Self Report?	NO	For Informational Purposes Only									
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)										
	Description:	ARS MCL 1Q2013 - The system violated the maximum contaminant level for arsenic during the 1st quarter of 2013 with a RAA of 0.016 mg/L at EP001, RAA of 0.016 mg/L at EP002, and RAA of 0.020 mg/L at EP004.										
10*	Date:	05/07/2013	(1133950)	CN600730048	Classification:	Moderate						
	Self Report?	NO	For Informational Purposes Only									
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)										
	Description:	ARS MCL 2Q2013 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2013 with a RAA of 0.016 mg/L at EP001, RAA of 0.016 mg/L at EP002, and RAA of 0.020 mg/L for EP004.										
				Classification:	Moderate							
	Self Report?	NO	For Informational Purposes Only									
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)										
	Description:	FLU MCL 2Q2013 - The system violated the maximum contaminant level for fluoride during the 2nd quarter of 2013 with a RAA of 4.6 mg/L at EP004.										
11	Date:	11/07/2013	(1133950)	CN600730048	Classification:	Moderate						
	Self Report?	NO	For Informational Purposes Only									
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)										
	Description:	ARS MCL 3Q2013 - The system violated the maximum contaminant level for arsenic during the 3rd quarter of 2013 with a RAA of 0.014 mg/L at EP001, RAA of 0.014 mg/L at EP002, and RAA of 0.018 mg/L for EP004.										
				Classification:	Moderate							
	Self Report?	NO	For Informational Purposes Only									
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)										
	Description:	FLU MCL 3Q2013 - The system violated the maximum contaminant level for fluoride during the 3rd quarter of 2013 with a RAA of 4.5 mg/L at EP004.										
12	Date:	02/27/2014	(1191399)	CN600730048	Classification:	Moderate						
	Self Report?	NO	For Informational Purposes Only									
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)										
	Description:	FLU MCL 4Q2013 - The system violated the maximum contaminant level for fluoride during the 4th quarter of 2013 with a RAA of 4.5 mg/L at EP004.										
				Classification:	Moderate							
	Self Report?	NO	For Informational Purposes Only									
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)										
	Description:	ARS MCL 4Q2013 - The system violated the maximum contaminant level for arsenic during the 4th quarter of 2013 with a RAA of 0.014 mg/L at EP001, RAA of 0.014 mg/L at EP002, and RAA of 0.018 mg/L at EP004.										
13	Date:	03/11/2014	(1191399)	CN600730048	Classification:	Moderate						
	Self Report?	NO	For Informational Purposes Only									
	Citation:	30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)										
	Description:	FLU MCL 1Q2014 - The system violated the maximum contaminant level for										



fluoride during the 1st quarter of 2014 with a RAA of 4.4 mg/L at EP004.

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: ARS MCL 1Q2014 - The system violated the maximum contaminant level for arsenic during the 1st quarter of 2014 with a RAA of 0.015 mg/L at EP001, RAA of 0.014 mg/L at EP002, and RAA of 0.018 mg/L at EP004.

14 Date: 03/31/2014 (1191399)

CN600730048

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: FLU MCL 1Q2013 - The system violated the maximum contaminant level for fluoride during the 1st quarter of 2013 with a RAA of 4.6 mg/L at EP004.

15 Date: 08/18/2014 (1191399)

CN600730048

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: FLU MCL 2Q2014 - The system violated the maximum contaminant level for fluoride during the 2nd quarter of 2014 with a RAA of 4.4 mg/L at EP004.

Classification: Moderate

Self Report? NO

Citation: 30 TAC Chapter 290, SubChapter F 290.106(f)(3)(C)

Description: ARS MCL 2Q2014 - The system violated the maximum contaminant level for arsenic during the 2nd quarter of 2014 with a RAA of 0.014 mg/L at EP001, RAA of 0.014 mg/L at EP002, and RAA of 0.017 mg/L at EP004.

\* NOV's applicable for the Compliance History rating period 9/1/2008 to 8/31/2013

## Appendix B

### All Investigations Conducted During Component Period August 25, 2009 and August 25, 2014

(936922)

Item 1\*

July 06, 2011\*\*

For Informational Purposes Only

(1133950)

Item 2

November 26, 2013

For Informational Purposes Only

(1160150)

Item 3\*

April 14, 2014

For Informational Purposes Only

(1191399)

Item 4

August 21, 2014

For Informational Purposes Only

(1191539)

Item 5

August 22, 2014

For Informational Purposes Only

\* No violations documented during this investigation

\*\*Investigation applicable for the Compliance History Rating period between 09/01/2008 and 08/31/2013.



# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF SEMINOLE  
RN101376978**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2014-1313-PWS-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Seminole (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. Kinnan Golemon of KG Strategies, LLC presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a public water supply located at 101 East Avenue A in Seminole, Gaines County, Texas (the "Facility") that has approximately 2,941 service

connections and serves at least 25 people per day for at least 60 days per year. Naturally occurring arsenic and fluoride have been found in the groundwater used by the Facility.

2. During a record review conducted from August 12, 2014 through August 22, 2014, TCEQ staff documented the running annual average concentrations for arsenic as depicted in the violation table below.
3. During a record review conducted from August 12, 2014 through August 22, 2014, TCEQ staff documented the running annual average concentrations for fluoride as depicted in the violation table below.

Violation Table				
Quarters/Year	Arsenic MCL=0.010 mg/L based on RAA			Fluoride MCL=4.0 mg/L based on RAA
	Entry Point No.1	Entry Point No.2	Entry Point No. 4	Entry Point No. 4
1Q14	0.015	0.014	0.018	4.4
2Q14	0.014	0.014	0.017	4.4
3Q14	0.014	0.014	0.017	4.4

Mg/L = milligrams per liter

RAA = Running Annual Average

MCL = Maximum Contaminant Level

4. The Respondent received notice of the violations on August 28, 2014.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.010 mg/L for arsenic, based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with the MCL of 4 mg/L for fluoride based on the running annual average, in violation of 30 TEX. ADMIN. CODE § 290.106(f)(3) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction;

for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

5. An administrative penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The One Thousand Five Hundred Dollar (\$1,500) administrative penalty is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and shall be waived only upon full compliance with all the terms and conditions contained in this Agreed Order. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, the deferred amount of the administrative penalty shall become immediately due and payable without demand or notice, and the Executive Director may require the Respondent to pay all or part of the deferred administrative penalty.

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Five Hundred Dollars (\$1,500) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Seminole, Docket No. 2014-1313-PWS-E" to:  
  
Financial Administration Division, Revenue Operations Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The Respondent shall undertake the following technical requirements:
  - a. Within 365 days after the effective date of this Agreed Order:
    - i. Return to compliance with the MCL for arsenic, in accordance with 30 TEX. ADMIN. CODE § 290.106; and
    - ii. Return to compliance with the MCL for fluoride, in accordance with 30 TEX. ADMIN. CODE § 290.106.

- b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. and 2.a.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations." The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager  
Water Supply Division, MC 155  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.

6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

  
For the Executive Director

1/22/16  
Date

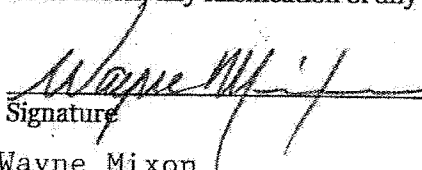
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Seminole. I am authorized to agree to the attached Agreed Order on behalf of the City of Seminole, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Seminole waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

11-9-15

Date

Wayne Mixon

Mayor

Name (Printed or typed)

Title

Authorized Representative of  
City of Seminole

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.